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LERNER GREENBERG STEMER LLP			MASUR, PAUL H	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/585,713	CHINEA ET AL.	
	Examiner	Art Unit	
	Paul Masur	2464	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 31 May 2010.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 10-23 is/are pending in the application.
 4a) Of the above claim(s) 1-9 is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 10-23 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 14 October 2009 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

1. **Claims 10-23 are pending.** Claims 1-9 have been cancelled.

Continued Examination Under 37 CFR 1.114

2. **A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection.** Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 05/03/2010 has been entered.

Claim Rejections - 35 USC § 112

3. **The following is a quotation of the second paragraph of 35 U.S.C. 112:**

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. **Claims 10-23 rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps.** See MPEP § 2172.01.

The omitted steps are: the relationship between the blocking time and the transmission time of the second burst. In other words, the claims imply that the sending node must wait the blocking time (which is received at the sending node) before it transmits the second burst. However, the claim limitation reads that the second burst is sent immediately. These limitations are contradictory. After consulting with the specification (see paragraph 0015), it appears the applicant intends that the blocking time be zero in some cases. However, this is not always the case according to the

broadest reasonable interpretation. The examiner requests that the applicant clarify this relationship between waiting the blocking time and transmitting subsequent bursts.

Claim Objections

5. **Claim 23 is objected to because of the following informalities:** limitation three does not end with a semicolon. Appropriate correction is required.

Claim Rejections - 35 USC § 103

6. **The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:**

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 10-14 and 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beshai et al. (US PG Pub 2008/0165688, which was cited in the previous action and will be referred to as “Beshai-1”) in view of Beshai et al. (US Patent 7,397,792 which will be referred to as “Beshai-2”)**

8. **As per claim 10, Beshai-1 teaches a method for transmitting a data burst between a sending network node and a receiving network node over a switching device of a data network, comprising:**

receiving information by the sending network node regarding a blocking time while transmitting the first data burst [Beshai-1, fig. 26-A, “Send Schedule”, The edge determines the blocking time from the schedule that is sent by the core.];

waiting for expiration of the blocking time [Beshai-1, fig. 26-A, “Delay”, paragraph 0184, “an edge node 208 sends a request to a core node 312 for permission to transfer

a data burst and waits until the permission is received”, The time that the edge waits after receiving the schedule is the blocking time,]; and

transmitting a second data burst from the sending network node to the receiving network node [Beshai-2, fig. 26-A, “Transmit Burst”].

Beshai-1 does not teach transmitting a first data burst...immediately after the first data burst. However, Beshai-2 teaches transmitting a first data burst...immediately after the first data burst [Beshai-2, fig. 12B, column 18, lines 30-35, “A connection may be allocated several time slots per TDM frame as illustrated in FIG. 12B where a connection may have one to four time slots. At least one time slot per TDM frame, herein called a control time slot, may be used for communicating control signals”, A first burst and a schedule for the connection share a time slot, where further data bursts follow.].

Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the teachings of Beshai-2 into Beshai-1, since Beshai-1 suggests sending packet bursts according to a defined protocol, and Beshai-2 contains teachings from the same inventor which suggest organizing bursts and scheduling according to a particular protocol in the analogous art of optical burst switching.

9. **As per claim 11,** Beshai-1 in view of Beshai-2 teach the method according to claim 10. Beshai-1 also teaches further comprising transmitting a remaining blocking time of an available connection between the sending and receiving nodes to the sending network node [Beshai-1, fig. 26-A, paragraph 0184, “Each edge node 208

would continually send such requests”, More scheduling requests are sent to determine remaining connection time.].

10. **As per claim 12,** Beshai-1 in view of Beshai-2 teach the method according to claim 11. Beshai-1 also teaches further comprising transmitting to the sending network node both:

the point in time of the beginning of an available connection or the blocking time until the beginning of an available connection [Beshai-1, fig. 26-A, paragraph 0184, “A reserved path remains idle until the edge node starts transmitting the burst”, The connection remains idle (blocking time) until the sending node sends the burst.], and

the point in time of the termination of the available connection or the duration of the available connection or a length of time until the end of the available connection are transmitted to the sending network node [Beshai-1, fig. 27, paragraph 0185, “The burst-width variation, as illustrated by the indicated envelope of burst-width variation with time, reflects time-varying flow-rate allocations”, The length of the burst (which is dependent on the connection) is dependent on time.].

11. **As per claim 13,** Beshai-1 in view of Beshai-2 teach the method according to claim 12. Beshai-1 also teaches wherein the blocking time [Beshai-1, fig. 26-A, paragraph 0184, “A reserved path remains idle until the edge node starts transmitting the burst”, The connection remains idle (blocking time) until the sending node sends the burst.] and the remaining connection time for a connection are transmitted to the sending network node [Beshai-1, fig. 27, paragraph 0185, “The burst-width variation, as illustrated by the indicated envelope of burst-width variation with time, reflects time-

varying flow-rate allocations”, The length of the burst (which is dependent on the connection) is dependent on time.].

12. **As per claim 14,** Beshai-1 in view of Beshai-2 teach the method according to claim 11. Beshai-1 also teaches wherein the sending network node sends a reservation request via the switching device to the receiving network node [Beshai-1, fig. 26-A, “Send Schedule”, The edge determines the blocking time from the schedule that is sent by the core (which also function as the receiving device).].

13. **As per claim 20,** Beshai-1 in view of Beshai-2 teach the method according to claim 13. Beshai-1 also teaches wherein the data bursts are transmitted over an optical data network [Beshai-1, paragraph 0009, “A network providing optical burst switching in the core requires flow-rate regulation at the electronic edge nodes to enable contention-free switching at subsequent core nodes”].

14. **As per claim 21,** Beshai-1 teaches a method for transmitting a data burst between a sending network node and a receiving network node over a switching device of a data network, comprising:

transmitting to the sending network node information including the point in time of the beginning of an available connection or a blocking time of the existing connection until the beginning of an available connection [Beshai-1, fig. 26-A, paragraph 0184, “A reserved path remains idle until the edge node starts transmitting the burst”, The connection remains idle (blocking time) until the sending node sends the burst.], and

the point in time of the termination of the available connection or the duration of the available connection or a length of time until the end of the available connection

[Beshai-1, fig. 27, paragraph 0185, “The burst-width variation, as illustrated by the indicated envelope of burst-width variation with time, reflects time-varying flow-rate allocations”, The length of the burst (which is dependent on the connection) is dependent on time.];

receiving said information by the sending network node implying the blocking time while transmitting the first data burst [Beshai-1, fig. 26-A, “Send Schedule”, The edge determines the blocking time from the schedule that is sent by the core.];

waiting for expiration of the blocking time [Beshai-1, fig. 26-A, “Delay”, paragraph 0184, “an edge node 208 sends a request to a core node 312 for permission to transfer a data burst and waits until the permission is received”, The time that the edge waits after receiving the schedule is the blocking time,]; and

transmitting a second data burst from the sending network node to the receiving network node [Beshai-1, fig. 26-A, “Transmit Burst”].

Beshai-1 does not teach transmitting a first data burst...immediately after the first data burst. However, Beshai-2 teaches transmitting a first data burst...immediately after the first data burst [Beshai-2, fig. 12B, column 18, lines 30-35, “A connection may be allocated several time slots per TDM frame as illustrated in FIG. 12B where a connection may have one to four time slots. At least one time slot per TDM frame, herein called a control time slot, may be used for communicating control signals”, A first burst and a schedule for the connection share a time slot, where further data bursts follow.].

Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the teachings of Beshai-2 into Beshai-1, since Beshai-1 suggests sending packet bursts according to a defined protocol, and Beshai-2 contains teachings from the same inventor which suggest organizing bursts and scheduling according to a particular protocol in the analogous art of optical burst switching.

15. **As per claim 22,** Beshai-1 in view of Beshai-2 teach the method according to claim 21. Beshai-1 also teaches wherein the blocking time is the time duration till the next permissible data burst transmission [Beshai-1, fig. 26-A, “Delay”, paragraph 0184, “an edge node 208 sends a request to a core node 312 for permission to transfer a data burst and waits until the permission is received”, The time that the edge waits after receiving the schedule is the blocking time.].

16. **As per claim 23,** Beshai-1 teaches a method for transmitting a data burst between a sending network node and a receiving network node over a switching device of a data network, comprising:

transmitting to the sending network node information containing the point in time of the beginning of an available connection or a remaining blocking time of an existing connection, and the duration of the available connection [Beshai-1, fig. 26-A, paragraph 0184, “A reserved path remains idle until the edge node starts transmitting the burst”, The connection remains idle (blocking time) until the sending node sends the burst.];

receiving said information by the sending network node said information implying the blocking time while transmitting the first data burst [Beshai-1, fig. 26-A, “Send

Schedule”, The edge determines the blocking time from the schedule that is sent by the core.];

waiting for expiration of the blocking time [Beshai-1, fig. 26-A, “Delay”, paragraph 0184, “an edge node 208 sends a request to a core node 312 for permission to transfer a data burst and waits until the permission is received”, The time that the edge waits after receiving the schedule is the blocking time,]; and

then transmitting a second data burst from the sending network node to the receiving network node [Beshai-1, fig. 26-A, “Transmit Burst”].

Beshai-1 does not teach transmitting a first data burst...immediately after the first data burst. However, Beshai-2 teaches transmitting a first data burst...immediately after the first data burst [Beshai-2, fig. 12B, column 18, lines 30-35, “A connection may be allocated several time slots per TDM frame as illustrated in FIG. 12B where a connection may have one to four time slots. At least one time slot per TDM frame, herein called a control time slot, may be used for communicating control signals”, A first burst and a schedule for the connection share a time slot, where further data bursts follow.].

Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the teachings of Beshai-2 into Beshai-1, since Beshai-1 suggests sending packet bursts according to a defined protocol, and Beshai-2 contains teachings from the same inventor which suggest organizing bursts and scheduling according to a particular protocol in the analogous art of optical burst switching.

17. Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beshai et al. (US PG Pub 2008/0165688, which was cited in the previous action and will be referred to as “Beshai-1”) in view of Beshai et al. (US Patent 7,397,792 which will be referred to as “Beshai-2”) and Oh et al. (US PG Pub 2003/0099243, which was cited in the previous action).

18. As per claim 15, Beshai-1 in view of Beshai-2 teach the method according to claim 14. Beshai-1 does not teach wherein a desired length of time until a subsequent data burst is sent in the reservation request.

However, Oh et al. teaches wherein a desired length of time until a subsequent data burst is sent in the reservation request [Oh, paragraph 0010, “It reserves the bandwidth on each link just for the data burst duration”, In the request, the desired burst time is stated.].

Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the teachings of Oh et al. into Beshai-1 since Beshai-1 suggests sending packet bursts according to a defined protocol, and Oh et al. suggests the beneficial use of a desired length of time between bursts such as to prevent congestion [Oh, paragraph 0010] in the analogous art of optical burst switching.

19. As per claim 16, Beshai-1 in view of Beshai-2 and Oh et al. teach the method according to claim 15. Beshai-1 also teaches wherein the data burst is transmitted via a plurality of switching devices [Beshai-1, fig. 26-A, An optical network comprises multiple switching devices.].

20. **As per claim 17,** Beshai-1 in view of Beshai-2 and Oh et al. teach the method according to claim 15. Beshai-1 does not teach wherein each switching device determines and transmits the longest remaining blocking time to the next switching device or the receiving network node.

However, Oh et al. teaches wherein each switching device determines and transmits the longest remaining blocking time to the next switching device or the receiving network node [Oh, paragraph 0010, “The control packet contains information necessary for routing the data burst through the optical channel, as well as information on the length of the burst and the offset value”, Through the duration and offset, a maximum time is determined pass through the network.].

Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the teachings of Oh et al. into Beshai-1, since Beshai-1 suggests sending packet bursts according to a defined protocol, and Oh et al. suggests the beneficial use of a desired length of time between bursts such as to prevent congestion [Oh, paragraph 0010] in the analogous art of optical burst switching.

21. **Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beshai et al. (US PG Pub 2008/0165688, which was cited in the previous action and will be referred to as “Beshai-1”) in view of Beshai et al. (US Patent 7,397,792 which will be referred to as “Beshai-2”), Oh et al. (US PG Pub 2003/0099243, which was cited in the previous action), and Craddock et al. (US PG Pub 2003/0035433, which was cited in the previous action).**

22. **As per claim 18,** Beshai-1 in view of Beshai-2 and Oh et al. teach the method according to claim 15. Beshai-1 does not teach wherein during an acknowledgement signal the receiving end node sends the remaining time till an available connection to the sending network node via the switching devices and the switching devices reserve the transmission capacity.

However, Craddock et al. teaches wherein during an acknowledgement signal the receiving end node sends the remaining time till an available connection to the sending network node via the switching devices and the switching devices reserve the transmission capacity [Craddock, paragraph 0083, “End-to-end (EE) contexts maintain end-to-end specific state to keep track of sequence numbers, acknowledgments, and time-out values”, End-to-End contexts determine the time remaining and the capacity.].

Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the teachings of Craddock et al. into Beshai-1, since Beshai-1 suggests sending packet bursts according to a defined protocol, and Craddock et al. suggests the beneficial use of End-to-End contexts such as to track network variables [Craddock, paragraph 0083] in the analogous art of optical networks.

23. **As per claim 19,** Beshai-1 in view of Beshai-2 and Oh et al. teaches the method according to claim 18. Beshai-1 does not teach wherein the reserved transmission capacity is based on the remaining time information.

However, Craddock et al. teaches wherein the reserved transmission capacity is based on the remaining time information [Craddock, paragraph 0083, “End-to-end (EE) contexts maintain end-to-end specific state to keep track of sequence numbers,

acknowledgments, and time-out values”, End-to-End contexts determine the time remaining and the capacity.].

Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the teachings of Craddock et al. into Beshai-1, since Beshai-1 suggests sending packet bursts according to a defined protocol, and Craddock et al. suggests the beneficial use of End-to-End contexts such as to track network variables [Craddock, paragraph 0083] in the analogous art of optical networks.

Conclusion

24. The Examiner has cited particular columns and line numbers or paragraphs in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in their entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, the Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

25. If the Applicant is of the opinion that an interview would help advance prosecution in this case, they are welcome to call the Examiner, Paul Masur, at

the number listed below to schedule an interview. The Examiner prefers interview requests be accompanied with a detailed agenda via fax. The Examiner's fax number is (571) 270-8297. The Examiner is willing to consider proposed amendments, clarify rejections, and discuss any other issues that are presented by the Applicant. Please note that the Examiner may not be able to accommodate all requests due to scheduling constraints. It is recommended that interview requests be sent with ample time to schedule an interview.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Masur whose telephone number is (571) 270-7297. The examiner can normally be reached on Monday through Friday from 7:30 AM to 5 PM (Eastern Time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on (571) 272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ricky Ngo/
Supervisory Patent Examiner, Art Unit 2464

/P. M./
Examiner, Art Unit 2464